

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JAMES AVERY RUSH, IV

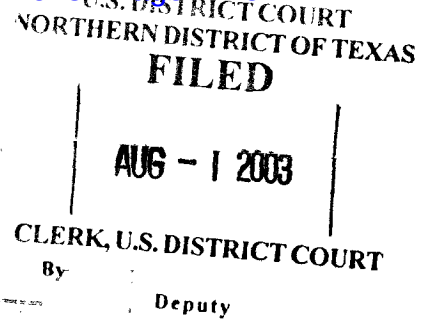
Plaintiff,

v.

NATIONAL BOARD OF MEDICAL
EXAMINERS,

Defendant.

Civil Action No. 2-03CV-0140J



**AGREED MOTION FOR MODIFICATION OF
ORIGINAL RULE 16 SCHEDULING ORDER**

TO THE HONORABLE COURT:

1. Counsel for Plaintiff and Defendant conferred in a Rule 26(f) conference on July 18, 2003. The discussion included the times set in the Original Rule 16 Scheduling Order ("Original Order") signed by the Court on July 15, 2003. Based upon that conference, the parties jointly move the Court to amend the Original Order for the reasons stated below.

2. Plaintiff contemplates the use of at least two expert witnesses and Defendant contemplates the use of at least four expert witnesses. The Original Order provides for Rule 26(a)(2) expert witness disclosures by all parties by November 14, 2003. In addition, as noted in paragraph 4 below, the parties request a second round of expert witness designations to allow all parties the opportunity to have experts in the same fields of expertise as the experts designated by the other party. Even without this addition, the effect of the Original Order is that the depositions of the experts must be scheduled after November 14, 2003 and during the holiday seasons of Thanksgiving and Christmas in order to meet the discovery deadline of January 19, 2004.

3. Accordingly, the parties move the Court to extend the following deadlines by approximately two months to allow for the depositions of the expert witnesses in January and February of 2004:

- a. Ready for trial date: from March 29, 2004 to May 28, 2004.
- b. Completion of discovery: from January 19, 2004 to March 19, 2004.
- c. To amend pleadings: from January 16, 2004 to March 15, 2004.
- d. Motions for Summary Judgment: from January 19, 2004 to March 19, 2004.
- e. All other motions except motions in limine: from February 2, 2004 to April 2, 2004.
- f. Rule 26(a)(3) Disclosures from: February 23, 2004 to April 23, 2004.

4. In addition, the parties request the following change to the schedule for designating expert witnesses. This change will allow each party the opportunity to designate witnesses after considering the expertise of all the experts designated by the opposition and the subject matter of their testimony. Therefore, the parties move the Court to add the following to paragraph 5 of the Original Order:

Parties seeking affirmative relief may file by October 24, 2003 a written designation of expert witnesses in response to Defendant's disclosures and must provide Rule 26(a)(2) disclosures for those witnesses by November 17, 2003. Defendant by November 14, 2003 may designate additional experts in response to Plaintiff's October 24, 2003 designation and Defendant must provide Rule 26(a)(2) disclosures for those witnesses by December 17, 2003.

5. An amended Rule 16 Scheduling Order, incorporating the changes referred to above is attached.

Wherefore, the parties move the Court to incorporate the scheduling changes described above.

Respectfully submitted,

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